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DOCKET NO. L00461.70105.US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

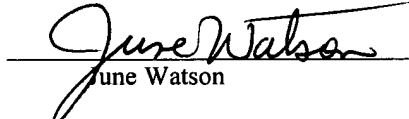
Applicant: Chen et al.
Serial No.: 09/849,602
Confirmation No.: 8884
Filed: May 4, 2001
For: COLON CANCER ANTIGEN PANEL

Examiner: C. D. Ly
Art Unit: 1631

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CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to the Commissioner for Patents, Washington, D.C. 20231, on the 18th day of November, 2002.


June Watson

Commissioner for Patents
Washington, DC 20231

Sir:


Transmitted herewith are the following documents:

- ☒ **Response to Restriction Requirement**
- ☒ **Petition for One Month Extension of Time**
- ☒ **Return Receipt Postcard**

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617)720-3500, Boston, Massachusetts.

A check in the amount of \$110.00 is enclosed for the one month extension of time fee. Please charge any underpayment or credit any overpayment to Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

Respectfully Submitted,


John R. Van Amsterdam, Reg. No. 40,212
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2211
Telephone: (617)720-3500

Docket No. L00461/70105
Date: November 18, 2002
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Plunkett
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Commissioner for Patents
Washington, DC 20231

RESPONSE TO RESTRICTION REQUIREMENT

Sir:


In response to the Action mailed on September 18, 2002 requiring a further restriction requirement, Applicants elect Group I, claims 1-5, 15, 16, 47, 48, 86-89 and 98, drawn to methods and kits for diagnosing colon cancer. In accordance with the sequence election requirement, Applicants elect the NY-CO-58 sequence (KNSL6; SEQ ID NOS: 5 and 20), with traverse.

Remarks

Applicants traverse the sequence election requirement because, while acknowledging that the nucleotide sequences encoding different proteins are different, the claims are directed to methods for using the sequences in the diagnosis of cancer. Therefore, in contrast to the situation where claims are made to the sequences themselves, Applicants do not believe that examination of the recited sequences as used in the methods would entail a significant burden on the Examiner.

Second, Applicants note that certain of the claims recite the use of two or more of the sequences in the diagnosis of cancer. For such claims, the sequence election requirement seems particularly inapplicable because the claims are directed to using panels of sequences in cancer diagnosis. The identification by Applicants of a specific panel of sequences that are found in a high percentages of cancers provides an advantage to clinicians seeking better diagnostics to better treat patients. The sequence election imposed by the Examiner may limit the scope of these panel claims and this may well hamper the ability of the claimed diagnostics to reach the clinical setting because the incentive provided by patent protection will be significantly reduced. Accordingly, Applicants respectfully urge the Examiner to reconsider and remove the sequence restriction requirement.

Respectfully Submitted,


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